

# SENATE NO. 1977

## **AN ACT** TO FURTHER PROMOTE THE GENERATION OF RENEWABLE ENERGY

*Be it enacted by the Senate and House of Representatives in General Court assembled,  
And by the authority of the same, as follows:*

1 Whereas, the deferred operation of this act would tend to defeat its purpose, which is forthwith  
2 to promote the development of clean renewable energy generation facilities, therefore it is  
3 hereby declared to be an emergency law, necessary for the immediate preservation of the  
4 Commonwealth's energy needs and convenience.

5 SECTION 1. Section 11 F of Chapter 25A of the General Laws, as appearing in the 2004  
6 Official Edition is hereby amended by adding the following new section:- (e) Not less than  
7 once every two years, every distribution company providing default or basic service, as that  
8 term is defined by the department of telecommunications and energy, shall conduct a Request  
9 for Proposals for contracts for a) Renewable Energy Certificates from eligible new renewable  
10 energy generating sources and b) Renewable Energy Certificates bundled with electricity  
11 generated from eligible new renewable energy generating sources; and shall sign contracts,  
12 subject to department of telecommunications and energy review and approval, that provide the  
13 least-cost means of compliance with this section for default or basic service customers.  
14 Distribution companies must consider contracts for up to 20 years duration, and must acquire at  
15 least thirty percent of their projected compliance obligation from contracts of at least ten years  
16 duration.

17 SECTION 2. Section 11 F of Chapter 25A of the General Laws, as appearing in the 2004  
18 Official Edition is hereby amended by striking clause (vii) in its entirety and inserting in place  
19 thereof the following new clause:- “(vii) incremental energy resulting from increased capacity  
20 and/or efficiency at hydroelectric facilities licensed by FERC after 1986, or at hydroelectric  
21 facilities that receive FERC approval to construct improvements necessary to provide such  
22 incremental energy, so long as such increased capacity and/or efficiency does not involve  
23 pumped storage of water, is achieved without involving any new impoundment or diversion of  
24 water, and meets the requirements for classification as “low impact” hydropower as certified by  
25 the Low Impact Hydropower Institute or as certified by the division in accordance with  
26 comparable environmental certification standards; provided that only such improvements to a  
27 hydroelectric facility made after January 1, 1998, and only up to five (5) megawatts per facility  
28 of incremental new energy attributable to such improvements, shall be considered a new  
29 renewable energy generating source.

30 SECTION 3. Section 11F of Chapter 25A of the General Laws, as appearing in the 2004  
31 Official Edition is hereby amended in line 33 by striking the words “clauses (vi) and (vii)  
32 herein.” and inserting in place thereof the following:- “clause (vi).”

33 SECTION 4. Said Section 11F of Chapter 25A, as so appearing, is hereby further amended by  
34 inserting the following new section:- (d) Commencing in January 2009 and continuing each  
35 year thereafter, the Division shall calculate and provide public notice of the total kilowatt-hour  
36 sales of generation from eligible incremental hydroelectric generation used for compliance with  
37 this section in the previous calendar year, which shall be reported as a percentage of total  
38 kilowatt-hour sales to end-use customers in the Commonwealth by retail electricity suppliers.  
39 The Division shall adjust upward, by this reported percentage, the minimum percentage of

40 kilowatt-hour sales from new renewable energy generation sources that each retail supplier must  
41 provide to end-use customers in the Commonwealth in the following year and each year  
42 thereafter, which shall be in addition to any other increases in the minimum percentage  
43 requirement for the purchase of new renewable energy generation as determined by the  
44 Division.

45 SECTION 5. Section 11 F of Chapter 25A of the General Laws, as appearing in the 2004  
46 Official Edition is hereby amended by striking sections (a) and (b) and replacing these section  
47 with the following new sections:- (a) The division of energy resources shall establish a  
48 renewable energy portfolio standard for all retail electricity suppliers selling electricity to end-  
49 use customers in the commonwealth. By December 31, 1999, the division shall determine the  
50 actual percentage of kilowatt-hours sales to end-use customers in the commonwealth which is  
51 derived from existing renewable energy generating sources. Every retail supplier shall provide  
52 a minimum percentage of kilowatt-hours sales to end-use customers in the commonwealth from  
53 new renewable energy generating sources, according to the following schedule: (i) an  
54 additional one percent of sales by December 31, 2003, or one calendar year from the final day  
55 of the first month in which the average cost of any renewable technology is found to be within  
56 10 percent of the overall average spot-market price per kilowatt-hour for electricity in the  
57 commonwealth, whichever is sooner; (ii) an additional one-half of one percent of sales each  
58 year thereafter until December 31, 2011; and (iii) an additional one percent of sales every year  
59 thereafter until January 1, 2020 or a date determined by the division of energy resources,  
60 whichever is later. Commencing on January 1, 2009, such minimum percentage requirement  
61 shall be known as the "CLASS I" renewable energy generating source requirement.  
62 Commencing on January 1, 2009, every retail supplier shall also provide a minimum percentage

63 of kilowatt-hour sales to end-use customers in the commonwealth from CLASS II renewable  
64 energy generating sources; such minimum percentage requirement for kilowatt-hour sales from  
65 CLASS II renewable energy generating sources shall be set by the division of energy resources  
66 by December 31, 2008, may be adjusted by the division as necessary to promote the continued  
67 operation of existing or new renewable energy generating resources that meet the requirements  
68 of subsections 11F(c) or (d), and may be met through kilowatt-hour sales to end-use customers  
69 from any energy generating source meeting the requirements of subsections 11F(c) or (d).

70 (b) For the purposes of this section, a renewable energy generating source is one which  
71 generates electricity using any of the following: (i) solar photovoltaic or solar thermal electric  
72 energy; (ii) wind energy; (iii) ocean thermal, wave, or tidal energy; (iv) fuel cells utilizing  
73 renewable fuels; (v) landfill gas; (vi) waste-to-energy which is a component of conventional  
74 municipal solid waste plant technology in commercial use; (vii) run-of-the-river hydroelectric;  
75 and (viii) low-emission biomass power conversion technologies using such biomass fuels as  
76 wood, agricultural, or food wastes, energy crops, biogas, biodiesel, or organic refuse-derived  
77 fuel. After conducting administrative proceedings, the division may add technologies or  
78 technology categories to the above list and to the list of new renewable energy generating  
79 sources in section (c) below; provided, however, that the following technologies shall not be  
80 considered renewable energy supplies: coal, oil, natural gas except when used in fuel cells, and  
81 nuclear power.

82 (c) For the purposes of this section, a new renewable energy generating source is one  
83 that begins commercial operation after December 31, 1997, or the net increase from incremental  
84 new generating capacity after December 31, 1997 at an existing facility, where the facility  
85 generates electricity using any of the following: (i) solar photovoltaic or solar thermal electric

86 energy; (ii) wind energy; (iii) ocean thermal, wave, or tidal energy; (iv) fuel cells utilizing  
87 renewable fuels; (v) landfill gas; or (vi) low-emission, advanced biomass power conversion  
88 technologies, such as gasification using fuels such as wood, agricultural, or food wastes, energy  
89 crops, biogas, biodiesel, or organic refuse-derived fuel. With respect to clause (vi) herein, the  
90 division may consider as a new renewable energy generating source any incremental new  
91 generation from an existing biomass facility retrofitted with low-emission, advanced biomass  
92 power conversion technologies. By January 1, 2007, such new renewable energy generating  
93 sources meeting the requirements of this subsection shall be known as "CLASS I" renewable  
94 energy generating sources.

95 (d) For the purposes of this section, a CLASS II renewable energy generating source is one  
96 that began commercial operation before December 31, 1997 and generates electricity using any  
97 of the following: (i) solar photovoltaic or solar thermal electric energy; (ii) wind energy; (iii)  
98 ocean thermal, wave, or tidal energy; (iv) fuel cells utilizing renewable fuels; (v) landfill gas;  
99 (vi) low-emission biomass power conversion technologies, such as gasification using fuels such  
100 as wood, agricultural, or food wastes, energy crops, biogas, biodiesel, or organic refuse-derived  
101 fuel; or (vii) a run-of-the river hydroelectric facility that does not utilize a dam constructed  
102 subsequent to December 31, 1997, does not entail any new impoundment or diversion of water  
103 subsequent to December 31, 1997, and where such facility (a) has a nameplate capacity of 5  
104 megawatts or less, and (b) has not been recommended for decommissioning or removal by any  
105 federal, state or local agency.

106 SECTION 6. Section 11F of Chapter 25A is hereby amended by adding to the end thereof the  
107 following:-

108 (c) Every retail supplier shall provide a portion of the minimum percentage established in  
109 subsection (a) from electricity generated using solar photovoltaic or solar thermal electric  
110 energy, according to the following schedule: 1 per cent in calendar year 2007; 2 per cent in  
111 calendar year 2008; and 3 per cent in calendar year 2009 and thereafter. A retail supplier may  
112 discharge its obligations under this subsection by making a Solar Alternative Compliance  
113 Payment to the designee of the division of energy resources. The Solar Alternative Compliance  
114 Payment rate shall be 300 dollars per megawatt-hour for calendar year 2007 and shall be  
115 adjusted up or down annually by the division according to the previous year's consumer price  
116 index. The division shall oversee use of the Solar Alternative Compliance Payment funds so as  
117 to maximize the commercial development of new solar generation.

118 SECTION 7. Subsection (b) of section 11F of chapter 25A of the General Laws, as appearing in  
119 the 2004 Official Edition, is hereby amended by inserting after the first sentence the following  
120 sentence:- A renewable energy generating source is also one which generates electricity using  
121 any low-emission stoker biomass combustion technology using sustainably harvested clean  
122 wood or other biomass as its fuel.